



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/761,817	01/21/2004	Thomas K. Milo	TKMZ 2 00002-3	4447
27885	7590	10/03/2005	EXAMINER	
FAY, SHARPE, FAGAN, MINNICH & MCKEE, LLP 1100 SUPERIOR AVENUE, SEVENTH FLOOR CLEVELAND, OH 44114			JOHNSON, STEPHEN	
			ART UNIT	PAPER NUMBER
			3641	

DATE MAILED: 10/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/761,817

Applicant(s)

MILO, THOMAS K.

Examiner

Stephen M. Johnson

Art Unit

3641

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 August 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) 7-18 and 25-30 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6, 19, 20 and 22-24 is/are rejected.
- 7) ☒ Claim(s) 21 is/are objected to.
- 8) ☒ Claim(s) 1-30 are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 August 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>3/8/2004</u> . | 6) <input type="checkbox"/> Other: _____ |



Art Unit: 3641

1. Applicant's election with traverse of species B (figs. 9A-9E) in the reply filed on 8/22/2005 is acknowledged. The traversal is on the ground(s) that no serious burden exists. This is not found persuasive because it is not accurate. Although there are similarities between the numerous different inventions, there are patentably distinct differences as well. These differences require both a search for multiple prior art embodiments in a single search area as well as additional search areas associated with the different patentably distinct features. Note that text searching gives different search results dependent upon the different features requested in the search.

The requirement is still deemed proper and is therefore made FINAL.

Claims 7-18 and 25-30 are withdrawn from consideration as being directed to non-elected species. The elected embodiment lacks "an adapter disposed at or near an end of the outer expansion tube" (see claim 7) and "the tubular plug extension and the sliding rod selectively mechanically engages the other" (see claim 10).

Claims 1-6 and 19-24 read on the elected species B and an action on these claims follows.

2. Claims 4-6 and 23-24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 4, lines 1-2, how are the terms "a sliding compression member" and "a sliding expansion member" intended to relate to the previously claimed 'first compression member', 'second compression member', and 'expansion member' (see claim 1)? In claim 5, it is not understood as to how rod 226 is secured in relation to the tubular plug extension 232? Please

Art Unit: 3641

clarify. In claim 6, line 1, how is the phrase “a joining member” intended to relate to the previously claimed ‘a joining member’ (see claim 1)? In claim 23, the phrase “the expandable member” should be claimed as (the expansion member) if this is the intended antecedent.

3. The amendment filed 8/22/2005 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: The addition directed to the replacement paragraph beginning on page 39, line 15, is unsupported by the application as originally filed.

Applicant is required to **cancel the new matter in the reply to this Office Action.**

4. The Replacement Sheets (3) filed on 8/22/2005 have been approved.

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1, 19, and 22-24 are rejected under 35 U.S.C. 102(b) as being anticipated by Noe (036).

Noe (036) discloses a gun safety device comprising:

- | | |
|--|-----------------------------|
| a) a first compression member; | 78 |
| b) a second compression member; | 74, 76 |
| c) an expansion member; | 86 or 80 |
| d) a joining member; and | 66 |
| e) an adjustable extension rod assembly. | 58, 56, col. 2, lines 43-47 |

Art Unit: 3641

7. Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by Peterson (685).

Peterson (685) discloses a gun safety device comprising:

- a) a first compression member; 24
- b) a second compression member; 22
- c) an expansion member; 16
- d) a joining member; and 28
- e) an adjustable extension rod assembly. 12, 32

8. Claim 19 is rejected under 35 U.S.C. 102(b) as being anticipated by Peterson (685).

Peterson (685) discloses a gun safety comprising:

- a) an adjustable rod assembly; 16, 28
- b) a tubular extension;; 16
- c) a slidable rod; 28

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

10. Claims 19-20 and 22 are rejected under 35 U.S.C. 102(e) as being anticipated by Audino (336).

Audino (336) discloses a gun safety comprising:

- a) an adjustable rod assembly; 26, 22
- b) a tubular extension;; 26

Art Unit: 3641

c) a slidable rod; and

38 (stem portion)

d) an engagement mechanism.

38 (head portion)

11. Claims 4-6 would be allowable if rewritten to overcome the rejection(s) under 35

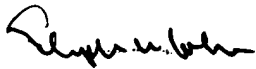
U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

12. Claim 21 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen M. Johnson whose telephone number is 571-272-6877 and whose e-mail address is (Stephen.Johnson@uspto.gov). The examiner can normally be reached on Tuesday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Carone can be reached on 571-272-6873. The Central FAX phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 800-786-9199.



STEPHEN M. JOHNSON
PRIMARY EXAMINER

Stephen M. Johnson
Primary Examiner
Art Unit 3641

Application/Control Number: 10/761,817

Page 6

Art Unit: 3641

SMJ

September 28, 2005